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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,888	11/01/2000	Richard C. Jaworski	21-005	4649

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EXAMINER

KERVEROS, JAMES C

ART UNIT PAPER NUMBER

2133

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/704,888

Applicant(s)

JAWORSKI ET AL.

Examiner

JAMES C. KERVEROS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-35 is/are pending in the application.
- 4a) Of the above claim(s) 15-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a FINAL Office Action in response to Amendment filed 4/2/2005.

Election/Restrictions

Claims 15-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. During a telephone conversation with MIKIO ISHIMARU on March 17, 2005 a provisional election was made without traverse to prosecute invention I, Claims 1-14. Also, Applicant's election without traverse of Claim 1-14 in the reply filed on 4/2/2005 is acknowledged.

Claim 14 is cancelled. Claims 15-35 are withdrawn. Claims 1-13 and 15-35 are pending. Claims 1-13 are under examination.

Rejection of Claim 14 under 35 U.S.C. 112, second paragraph, is hereby withdrawn in view of claim 14 being cancelled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the

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United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Ott (US Patent NO: 6,182,264, issued: January 30, 2001, filed: May 22, 1998)

Regarding independent Claim 1, Ott discloses a method for smart dynamic selection of error correction related to digital enhanced cordless telephony (DECT), and other error-prone bi-directional data transmission systems, comprising:

Transmitting a signal from data stream source 101 of a transmitter via a transmission channel 113 of a network, Figure 1.

Receiving the signal at a receiver data stream 118, Figure 1.

Returning the signal via feedback channel 114 to the transmitter.

Correcting errors based upon a detected error rate (e.g., bit error rate) in receiver data stream 118 corresponding to the signal quality of transmission channel 113, as determined by error/signal quality detector 117, which determines the error rate in receiver data stream 118 as system 100 operates and select control 115 and 109 dynamically update the currently selected encoder-decoder pair via feedback channel 114 in order to coordinate the encoder-decoder pair to be used.

Determining the performance of the network from the data stream source 101 of a transmitter to the receiver data stream 118, via the transmission channel 113 of a network, using an error rate detector 117 coupled to the receiver 118 and adapted to detect an error rate and/or signal quality of the information as the information is received from the transmitter via transmission channel 113, Figure 1.

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Regarding Claim 2, Ott discloses transmitting a signal from data stream source 101, comprising transmitting signal packets such as data stream 101 encoded by each of the encoders 102-104. Selector 109 selects one of encoders 102-104 to provide the signal for transmission channel 113, and in turn, to the receiving device.

Regarding Claim 3, receiving the signal at the destination (receiver data stream 118) having first errors primarily affected by the transmission condition of transmission channel 113 corresponding to a first portion (upstream),

Returning the signal via the return portion of channel 113 to the transmitter (data stream source 101) with the second error caused by transmission through the return portion of the network (downstream),

Correcting the second errors by leaving the first error in the signal, by selecting encoder-decoder pair via feedback channel 114 in order to coordinate the encoder-decoder pair to be used.

Comparing the signal with the first errors as a result of the (upstream) with the signal transmitted at the transmission point as a result of the (downstream), to determine the performance of the first portion (upstream) of the network, using Error/signal quality detector 117 which dynamically determines the error rate in receiver data stream 118 due to the quality of the transmission channel 113 (upstream). The error rate detector is coupled to the receiver and is adapted to detect an error rate and/or signal quality of the information as the information is received from the transmitter.

Regarding Claim 4, Ott discloses discarding error by employing an Automatic Repeat Request (RS+ARQ encoder 104) in the transmission device coupled to a corresponding (RS+ARQ decoder 112) in the receiving device via a transmission channel 113, and using redundancy in the transmitted data to detect and remove errors in received data ARQ Automatic Repeat Request, by asking for re-transmission of data received with uncorrectable errors.

Regarding Claim 5, Ott discloses error/signal quality detector 117 for detecting error rate (e.g., bit error rate) in receiver data stream 118, Figure 1.

Regarding independent Claim 6, Ott discloses a method for smart dynamic selection of error correction related to digital enhanced cordless telephony (DECT), and other error-prone bi-directional data transmission systems, comprising:

Transmitting a signal from data stream source 101 of a transmitter via a transmission channel 113 of a network, Figure 1.

Receiving the signal at a receiver data stream 118, Figure 1.

Returning the signal via feedback channel 114 to the transmitter.

Detecting error rate (e.g., bit error rate) in receiver data stream 118 and the signal quality of transmission channel 113, as determined by error/signal quality detector 117, which determines the error rate in receiver data stream 118 as system 100 operates and select control 115 and 109 dynamically update the currently selected encoder-decoder pair via feedback channel 114 in order to coordinate the encoder-decoder pair to be used.

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Discarding error by employing an Automatic Repeat Request (RS+ARQ encoder 104) in the transmission device coupled to a corresponding (RS+ARQ decoder 112) in the receiving device via a transmission channel 113, and using redundancy in the transmitted data to detect and remove errors in received data ARQ Automatic Repeat Request, by asking for re-transmission of data received with uncorrectable errors.

Determining the errors and the non-errors using an error/signal quality detector 117, which determines the error rate in receiver data stream 118, and using an Automatic Repeat Request (RS+ARQ) method to detect and remove errors.

Regarding Claims 7, 8, Ott discloses a network transmission channel 113, Figure 1, which is applicable to digital enhanced cordless telephony (DECT), but also other error-prone bi-directional data transmission systems are applicable, such as a cable link, which is a local area cable loop, including transmission channel 113 and receiving channel 114, Figure 1.

Regarding Claims 9, 10, 11, Ott discloses determining the performance of the upstream channel (transmission channel 113), wherein the transmitting step transmits the signal in the upstream channel, such as from the data stream source 101 of the transmitter via the transmission channel 113 to the receiver data stream 118, of the receiver, and wherein returning the signal via feedback channel 114 to the transmitter, Figure 1.

Regarding Claim 12, Ott discloses a receiver, which is functionally equivalent to a cable modem termination system, Figure 1.

Regarding Claim 13, Ott discloses correcting step uses forward error correction techniques using a CRC Cyclic Redundancy Check by employing a CRC encoder 102 in the transmitter and a corresponding CRC decoder 110 in the receiver and using the CRC Cyclic Redundancy Check for calculating local check sum and comparing to transmitted check sum to detect errors in received data RS Reed-Solomon block code forward error correction.

Response to Arguments

Applicant's arguments filed 4/2/2005 have been fully considered but they are not persuasive.

Regarding independent Claim 1, as amended, in response to Applicant's argument that Ott does not disclose "determining the performance of the portion of the network from the transmission point to the destination", the Examiner notes, as indicated in the present Office Action above, Ott discloses an error rate detector 117 coupled to the receiver 118 and adapted to detect an error rate and/or signal quality of the information as the information is received from the transmitter via transmission channel 113, Figure 1.

In response to Applicant's argument that there is support for the above amendment on page 10 of Applicant's specification, it is noted that the features upon which applicant relies (i.e., specification page 10, Figure 5) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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In response to Applicant's argument that Ott does not disclose determining the performance of the channel, the Examiner notes that the return channel (downstream) is identical to the (upstream) of communication channel 113. Even though, Ott shows only the upstream portion of channel 113, it is well known for those skilled in the art that communication channels are inherently two-way channels, bi-directional data transmission systems, where the upstream and (downstream) portions are identical to each other. Therefore, the same error detection and correction principle applies equally to both streams. According to Ott, "the present invention relates to digital enhanced cordless telephony (DECT), and other error-prone bi-directional data transmission systems". Furthermore, "system 100 is shown using DECT defined (digital enhanced cordless telephony) error correction methods. However, it should be appreciated that the system of the present invention is well-suited for use with other types of digital communication systems".

In general, independent claim 1 is too broad in scope, and therefore fails to overcome the prior art reference by Ott.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **JAMES C. KERVEROS** whose telephone number is (571) 272-3824. The examiner can normally be reached on 9:00 AM TO 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

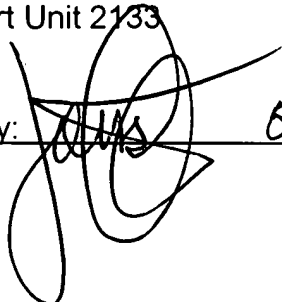
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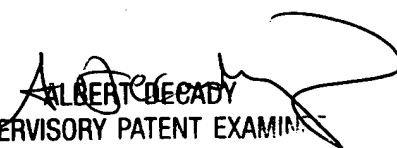
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Office Action: Final Rejection

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By:  5/10/05


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